



**[BILLING CODE: 6750-01S]**

**FEDERAL TRADE COMMISSION**

**[File No. 152 3229]**

**Mars Petcare US, Inc.; Analysis of Proposed Consent Order to Aid Public Comment**

**AGENCY:** Federal Trade Commission.

**ACTION:** Proposed Consent Agreement.

-----

**SUMMARY:** The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent order -- embodied in the consent agreement -- that would settle these allegations.

**DATES:** Comments must be received on or before September 6, 2016.

**ADDRESSES:** Interested parties may file a comment at

<https://ftcpublic.commentworks.com/ftc/marspetcareconsent> online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION**

section below. Write “In the Matter of Mars Petcare US, Inc., File No.152-3229 - Consent Agreement” on your comment and file your comment online at

<https://ftcpublic.commentworks.com/ftc/marspetcareconsent> by following the instructions on the web-based form. If you prefer to file your comment on paper, write “In the Matter of Mars Petcare US, Inc., File No.152-3229 - Consent Agreement” on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue, NW, Suite CC-5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of

the Secretary, Constitution Center, 400 7th Street, SW, 5th Floor, Suite 5610 (Annex D), Washington, DC 20024.

**FOR FURTHER INFORMATION CONTACT:** David M. Newman, (415-848-5123), FTC Western Region, 901 Market Street, Suite 570, San Francisco, CA 94103.

**SUPPLEMENTARY INFORMATION:** Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR § 2.34, notice is hereby given that the above-captioned consent agreement containing consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for August 4, 2016), on the World Wide Web at:  
<http://www.ftc.gov/os/actions.shtm>.

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before September 6, 2016. Write “In the Matter of Mars Petcare US, Inc., File No.152-3229 - Consent Agreement” on your comment. Your comment - including your name and your state - will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Website, at <http://www.ftc.gov/os/publiccomments.shtm>. As a matter of discretion, the Commission tries to remove individuals’ home contact information from comments before placing them on the Commission Website.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like anyone’s Social

Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any "[t]rade secret or any commercial or financial information which . . . is privileged or confidential," as discussed in Section 6(f) of the FTC Act, 15 U.S.C. § 46(f), and FTC Rule 4.10(a)(2), 16 CFR § 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR § 4.9(c).<sup>1</sup> Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at <https://ftcpublic.commentworks.com/ftc/marspetcareconsent> by following the instructions on the web-based form. If this Notice appears at <http://www.regulations.gov/#!home>, you also may file a comment through that website.

---

<sup>1</sup> In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c), 16 CFR § 4.9(c).

If you file your comment on paper, write “In the Matter of Mars Petcare US, Inc., File No.152-3229 - Consent Agreement” on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue, NW, Suite CC-5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7<sup>th</sup> Street, SW, 5<sup>th</sup> Floor, Suite 5610 (Annex D), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Website at <http://www.ftc.gov> to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before September 6, 2016. You can find more information, including routine uses permitted by the Privacy Act, in the Commission’s privacy policy, at <http://www.ftc.gov/ftc/privacy.htm>.

### **Analysis of Proposed Consent Order to Aid Public Comment**

The Federal Trade Commission (“FTC” or “Commission”) has accepted, subject to final approval, an Agreement Containing Consent Order from Mars Petcare US, Inc. (“respondent”). The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement and take appropriate action or make final the agreement’s proposed order.

This matter involves the advertising, marketing, and sale by respondent of dog food under the Eukanuba brand. Respondent has marketed its Eukanuba brand dog foods through retail outlets. According to the FTC complaint, respondent claimed that its dog food could increase the longevity of dogs by 30 percent or more.

Specifically, the FTC complaint alleges that respondent represented that dogs in a ten-year study that were fed Eukanuba brand dog food and received proper care lived exceptionally long lives – including 30 percent or more longer than their typical lifespan. The complaint alleges that these claims are false or unsubstantiated and thus violate the FTC Act. The complaint also alleges that respondent represented that scientific tests prove that feeding dogs its Eukanuba brand dog food can enable dogs to live exceptionally long lives or to live 30 percent or more longer than their typical lifespan. The complaint alleges that these claims are false and thus violate the FTC Act.

The proposed consent order contains provisions designed to prevent respondent from engaging in similar acts or practices in the future. Specifically, Part I addresses the unsubstantiated claims alleged in the complaint. Part I prohibits respondent from making misleading or unsubstantiated representations that its Eukanuba-brand pet foods or any other pet food can enable dogs to live 30 percent or more longer than their typical lifespan or live exceptionally long lives. It also prohibits respondent from making misleading or unsubstantiated claims regarding the health benefits of any pet food. It requires that respondent possesses and relies upon “competent and reliable scientific evidence” to substantiate any such representation.

Part II of the proposed order addresses the allegedly false claims that scientific tests prove that feeding dogs respondent’s Eukanuba brand dog food can enable dogs to live 30 percent or more longer or substantially longer than their typical lifespan. Part II prohibits

respondent, when advertising any pet food, from misrepresenting the existence, contents, validity, results, conclusions, or interpretations of any test, study, or research, or misrepresenting that any health benefits of the pet food are scientifically proven.

Parts III-VI of the proposed order contain compliance and recordkeeping requirements. Part III requires respondent acknowledge receipt of the order, to provide a copy of the order to certain current and future principals, officers, directors and employees, and to obtain an acknowledgement from each such person that they have received a copy of the order. Part IV requires the filing of compliance reports within one year after the order becomes final and within 14 days of any change in respondent that would affect compliance with the order. Part V requires respondent to maintain certain records, including records necessary to demonstrate compliance with the order. Part VI requires respondent to submit additional compliance reports when requested by the Commission and to permit the Commission or its representatives to interview respondent's personnel. Finally, Part VII provides that the order will terminate after twenty (20) years, with certain exceptions.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the complaint and proposed order or to modify the proposed order's terms in any way.

By direction of the Commission.

Donald S. Clark  
Secretary.

[FR Doc. 2016-18906 Filed: 8/9/2016 8:45 am; Publication Date: 8/10/2016]